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Docket No. 55837US02



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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): Deral T. MOSBEY et al.) Group Art Unit: 1619
Serial No.: 09/966,511)
Confirm. No.: 4740) Examiner: A. Berman
Filed: September 28, 2001)
[Handwritten signatures and initials over the application details]

For: WATER-IN-OIL EMULSIONS WITH ETHYLENE OXIDE GROUPS,
COMPOSITIONS, AND METHODS

RESPONSE TO RESTRICTION REQUIREMENT

Assistant Commissioner for Patents
Washington, D.C. 20231

Dear Sir:

In response to the Restriction Requirement mailed 28 January 2002, Applicants elect, with traverse, Group I (claims 1-52), drawn to a composition comprising a vinyl polymer. Applicants' Representatives reserve the right to pursue examination of the non-elected claims in continuation or divisional applications.

Applicants respectfully request reconsideration of the restrictions in this case and submit that the inventions as claimed can be readily evaluated in one search without placing undue burden on the Examiner. In the event the Examiner maintains the restriction requirement, rejoinder of the non-elected claims 53-61 is respectfully requested upon notice of allowance of any of the elected product claims. Notably, the non-elected method claims 53-61 each depend from an elected product claim (1-52) (see 1184 O.G. 84, citing *In re Ochiai*, 37 USPQ2d 1127 (Fed. Cir. 1995), and *In re Brouwer*, 37 USPQ2d 1663 (Fed. Cir. 1996)).

Pursuant to the Examiner's request regarding the selection of species, Applicants elect vinyl polymers derived from isoctyl acrylate, stearyl methacrylate, and polyethylene oxide methacrylate (i.e., a terpolymer), which are encompassed by all claims of Group I. This election is with traverse to the extent that it is understood that (a) the requirement will be withdrawn upon the finding of an allowable genus; and (b) any species withdrawn from consideration will be

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transferred to the elected subject matter unless it is found patentably distinct from the elected or allowed claims. Applicants traverse on the grounds that the generic claim includes sufficiently few species that a search and examination of all the species at one time would not impose a serious burden on the Examiner.

The Examiner is invited to contact Applicants' Representatives, at the below-listed telephone number, if there are any questions regarding this Response or if prosecution of this application may be assisted thereby.

CERTIFICATE UNDER 37 C.F.R. 1.8:

The undersigned hereby certifies that this paper is being deposited in the United States Postal Service, as first class mail, in an envelope addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231, on this 27 day of FEBRUARY, 2002.


Ann M. Mueting

Date

February 27, 2002

AMM/kjm

Respectfully submitted for

Deral T. MOSBEY et al.

By

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